

## TRANSPORTATION DEPARTMENT[761]

### Notice of Intended Action

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 307.12, 307A.2 and 306D.4, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 132, "Iowa Scenic Byway Program," Iowa Administrative Code.

The proposed amendments to this chapter:

- Eliminate the emphasis on "scenic," which is consistent with the rebranding of the program as Iowa Byways.
- Correct contact information.
- Remove or revise outdated, unnecessary language.
- Add definitions and update the definition of "advisory council."
- Clarify the eligibility requirements of proposed routes exhibiting heritage or scenic qualities.
- Provide for clarity of responsibilities between the Department and the byway jurisdictions for the design, fabrication, installation and maintenance of byway signage along designated routes.
- Provide additional detail about the qualities desired regarding the proposed byways. The qualities form the basis for the criteria upon which proposed byways are assessed when considered for designation.
- Remove the mandatory periodic review of designated byways by the Department and replace it with a discretionary review as conditions warrant or if signage is not being properly maintained.
- Change the application cycle for proposed byways from two years to four years to allow sufficient time to complete review, designation, and signage of a previous cycle before accepting new applications.
- Simplify the review process for proposed byways.
- Clarify that the Iowa Byways Advisory Council will review and make recommendations for new byway designations for the Department's consideration.

These amendments do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Rules Administrator, Iowa Department of Transportation, Operations and Finance Division, 800 Lincoln Way, Ames, Iowa 50010; e-mail: [tracy.george@iowadot.us](mailto:tracy.george@iowadot.us).
5. Be received by the Department's rules administrator no later than July 11, 2017.

A meeting to hear requested oral presentations is scheduled for Thursday, July 13, 2017, at 10 a.m. in the Administration Building, First Floor, North Conference Room, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 306D.

The following amendments are proposed.

ITEM 1. Amend **761—Chapter 132**, title, as follows:

**IOWA SCENIC BYWAY BYWAYS PROGRAM**

ITEM 2. Amend rule 761—132.1(306D) as follows:

**761—132.1(306D) Purpose, overview and information.**

**132.1(1) Purpose.** The purpose of the Iowa ~~scenic-byway~~ Byways program is to designate qualifying Iowa roads as ~~scenic~~ byways on the basis of scenic byway, heritage byway, or a combination of scenic and heritage byway qualities. These designations are intended both to preserve the state's scenic, natural, and historic resources and to support economic development through travel and tourism.

**132.1(2) Overview.** Under the Iowa ~~scenic-byway~~ Byways program, proposed routes are identified via an application process. The department inventories and evaluates the proposed routes. The advisory council ~~selects~~ recommends the routes to be designated by the department. The department provides identifying signs for the designated routes. Routes designated as an Iowa Byway are part of Iowa's scenic byway program and are therefore subject to the prohibition set forth in 23 U.S.C. Section 131(s).

**132.1(3) Information and forms.** Information, instructions and application forms may be obtained from the Office of ~~Location and Environment~~ Systems Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1664; or through the department's Web site at [www.iowadot.gov](http://www.iowadot.gov).

ITEM 3. Amend rule **761—132.2(306D)**, definition of "Advisory council," as follows:

"*Advisory council*" means the ~~scenic-byway~~ Iowa Byways advisory council. This group is responsible for ~~selecting~~ recommending routes for ~~scenic-byway~~ Iowa Byways designation. It is comprised of representatives from the ~~department of transportation, the department of economic development, the department of cultural affairs, and the department of natural resources~~ state agencies with jurisdiction over transportation, tourism, cultural resources, historic resources and natural resources.

ITEM 4. Adopt the following new definitions of "Department," "Designation," "Heritage byway," and "Scenic byway" in rule **761—132.2(306D)**:

"*Department*" means the Iowa department of transportation.

"*Designation*" means department approval of a route as an Iowa Byway.

"*Heritage byway*" means a route that has historic or cultural significance along its length or connects various areas or sites of historic or cultural significance along its length.

"*Scenic byway*" means a route that has naturally scenic features visible along its length.

ITEM 5. Rescind rule **761—132.3(306D)**.

ITEM 6. Renumber rules **761—132.4(306D)** to **761—132.7(306D)** as **761—132.3(306D)** to **761—132.6(306D)**.

ITEM 7. Amend renumbered rule 761—132.3(306D) as follows:

**761—132.3(306D) General requirements.**

**132.3(1)** A route eligible for designation as an Iowa Byway must meet the definition of either a heritage byway or a scenic byway. A route may also be eligible for designation if segments of the route meet a combination of either a heritage byway or a scenic byway along its entire length.

~~132.3(1)~~ **132.3(2)** Primary roads, secondary roads and city streets are eligible for designation as ~~scenic-byways~~ Iowa Byways.

~~132.3(2)~~ **132.3(3)** A ~~scenic-byway~~ route eligible for designation as an Iowa Byway should be continuous and at least 20 miles in length. ~~Scenic or heritage features in one form or another should exist along the entire route.~~

~~132.3(3)~~ **132.3(4)** Each city and county through which a route passes must approve the scenic byway designation. The governing body of each city and county through which a route passes must pass a formal resolution endorsing the application for Iowa Byway designation and agreeing to the responsibilities of having jurisdiction over a portion of a designated route.

~~132.3(4) 132.3(5)~~ Signs designating scenic byways shall be paid for and furnished by the department. Each roadway jurisdiction is responsible for installing scenic byway signs on roads under its jurisdiction in accordance with a signing plan provided by the department. The initial installation of signs identifying an Iowa Byway including the accompanying posts and hardware necessary for installation shall be paid for and furnished by the department. Each roadway jurisdiction is responsible for the inventory, maintenance, and reinstallation of signs provided by the department following the initial installation.

ITEM 8. Amend renumbered rule 761—132.4(306D) as follows:

**761—132.4(306D) Application and approval process.**

**132.4(1) Program cycle.** ~~The scenic byway Iowa Byways~~ program shall operate on a ~~two-year four-year~~ cycle, with the following steps and timetable: applications due by October 1, 2020, and every fourth year thereafter. Field inventories, evaluation, and rating of proposed routes will follow with designation of any new routes completed by the next application deadline.

<u>Step</u>	<u>Timetable</u>
Deadline for submission of applications	October 1 of even-numbered years
Field inventories of proposed routes	April to October of odd-numbered years
Evaluation and rating of proposed routes	November to February following field inventories
Designation and signing of routes	March to August of even-numbered years

~~Subrules 132.5(2) to 132.5(7) further explain each step of the program cycle.~~

**132.4(2) Application.** ~~Application to designate a route as a scenic byway~~ an Iowa Byway or to propose an extension or loop to an existing route shall be on a form provided by the department and shall be submitted to the office of location and environment received by the department by the stated application deadline. The application must be accompanied by a document indicating approval of the designation from the city council of each city and the board of supervisors of each county through which the proposed route passes formal resolution described in subrule 132.3(4). Applications must provide some discussion of the planned administration and governance of the proposed Iowa Byway as well as how the byway will be marketed to visitors.

**132.4(3) Initial review.** ~~Applications shall be reviewed by the advisory council to acquaint the council members with the proposed routes, and to allow the members time an opportunity to provide any the department with information from their areas of expertise regarding the routes, and to provide guidance to the program. Such input may provide details related to the existence and quality of scenic, archaeological, cultural, historic, natural, and recreational resources along a proposed route.~~

**132.4(4) Field inventory.** ~~The department shall conduct a field inventory of proposed routes. The department shall collect the following information for each proposed route which will address the following qualities:~~

*a. Scenic value.* ~~Types and qualities of views along the proposed route, including panoramas, scenes and focal points contributing to the scenic quality of the route shall be identified as well as views that distract from or negatively affect the scenic quality of the route. Several elements or items related to material or color are also pinpointed. The field inventory will provide an assessment of the visual character of the proposed route along its length.~~

*b. Cultural and historic resources.* ~~Quality of the various views along the route, from outstanding to poor or distracting. Known cultural and historic resources will be identified along the length of the proposed route. Such resources may include archaeological, architectural, historical or other cultural sites of national or state significance and may also include interesting or unique local cultures or architecture that may appeal to visitors.~~

*c. Natural resources.* ~~How long one sees a particular view or element. Resources including but not limited to agricultural lands, forests, river basins, and other distinctive landforms will be identified.~~

~~d. *Recreational resources.* Relative ease of seeing the various views and elements as the road is driven. Public lands and facilities providing opportunities for organized sport, outdoor recreation, or other recreation will be identified.~~

~~e. *Transportation.* Visual character of the roadway alignment. An assessment will be made of existing and future traffic conditions, planned improvements to the proposed route, and any safety concerns whether existing or anticipated. If the route is being considered for heritage byway designation, historic elements specific to transportation will be identified.~~

~~f. *Types of scenic areas or historic sites along the route.*~~

~~g. *Variety of views as the route is driven.*~~

**132.4(5) *Evaluation and rating.*** The department shall compile and evaluate the field inventory data for each proposed route, calculate an overall quality rating for each proposed route, and prepare a written report documenting these findings. ~~A potential quality rating ranges from “excellent” to “very poor.” The midpoint is “average.”~~ The written report shall also consider the sustainability of the proposed route based on the information provided in the application for planned governance and marketing plans as well as how the proposed route will complement the existing Iowa Byways.

**132.4(6) *Selection.*** The advisory council shall review the evaluations and ratings and select the recommend routes to be designated as Iowa Byways based on this information and any other information the council may have obtained regarding the routes. ~~For a route to be designated, it must have an overall quality rating that is above “average.” Also, at least 50 percent of the length of the route must be rated above “average.”~~

**132.4(7) *Designation.*** The department will consider designating routes recommended by the advisory council as Iowa Byways.

~~**132.4(7) 132.4(8) *Signing.*** The department shall provide the necessary state scenic byway signs and accompanying posts and hardware for the newly designated scenic byways. Upon the designation of Iowa Byways, the department will proceed with the initial design and installation of signage identifying new Iowa Byways.~~

ITEM 9. Amend renumbered rule 761—132.5(306D) as follows:

**761—132.5(306D) *Reevaluation.*** ~~Every four years from the date of designation~~ At its discretion, the department shall may inventory and evaluate ~~the scenic byway designated Iowa Byways or portions of byways~~ to determine ~~its their~~ continued eligibility ~~in~~ for the program. The department reserves the right to remove a route or portion of a route from the scenic byway program if the route no longer meets the designating criteria or if the route signage has not been maintained. The department may modify an existing route if an alternative route would better benefit the traveling public in cases of poor road conditions, closures or changes in available amenities.

ITEM 10. Amend renumbered rule 761—132.6(306D) as follows:

**761—132.6(306D) *Promotional and tourism efforts.*** The department is not responsible for economic development, promotional and, or other tourism efforts for ~~scenic byways~~ Iowa Byways.